



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-371-9500, fax: 617-723-5851



SUFFOLK, ss

COMMISSION ADJUDICATORY
DOCKET NO. 06-0012

IN THE MATTER
OF
JOHN DEWALD

DISPOSITION AGREEMENT

The State Ethics Commission and John DeWald enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On April 13, 2006, pursuant to G.L. c. 268B, § 4(a), the Commission initiated a preliminary inquiry into possible violations of the conflict-of-interest law, G.L. c. 268A, by DeWald. The Commission has concluded its inquiry and, on June 9, 2006, found reasonable cause to believe that DeWald violated G.L. c. 268A, §§ 17 and 23(b) (2).

The Commission and DeWald now agree to the following findings of fact and conclusions of law.

Findings of Fact

1. During the time relevant, DeWald was the appointed Rockland Finance Committee ("FinCom") chairman. As such, DeWald was a municipal employee as that term is defined in G.L. c. 268A, § 1, and subject to the provisions of the conflict-of-interest law, G.L. c. 268A.

2. Sandy Lederman ("Lederman") is an attorney with law offices in Brockton. DeWald is also an attorney with separate law offices in Brockton. DeWald and Lederman are friends.

3. Lederman represents Ken Crosby ("Crosby"), whose 8-acre parcel was taken through default foreclosure by the Town of Rockland for unpaid taxes.

4. Lederman filed a motion to remove the default (Town of Rockland v. Crosby) in an attempt to get Crosby's property back from town ownership.

5. Rockland Tax Title Attorney Laura Powers ("Powers") handled the Crosby case for the town.

6. The Board of Selectmen hired Powers. She reports to the Treasurer. Each year, the Treasurer's Department has a certain amount of money in its budget for legal fees. The Treasurer's Department accrued more legal fees than what was budgeted because of the Crosby case. In order to pay those bills, the Treasurer has to take the bills before the FinCom. The FinCom reviews those bills and then votes whether to approve additional funds to pay the bills. Some of the legal bills are from Powers because of her work on the Crosby case.

7. Lederman called DeWald and asked DeWald to talk to Powers to see if she would be willing to resolve the default and settle the case. DeWald agreed to call Powers.

8. Lederman's motion to remove the default was scheduled for hearing on January 20, 2005 at 2:00 PM. A few hours before the hearing, DeWald telephoned Powers. DeWald introduced himself as the FinCom chairman. DeWald then tried to persuade Powers to settle the case for back taxes and attorney fees. Powers declined stating that the town wanted to keep the land. DeWald continued to plead his case and tried to convince Powers to settle the case. Powers felt pressured by DeWald's call but declined DeWald's offer.

9. The Crosby case is still pending.

10. DeWald maintains that he did not intend to pressure Powers into settling the Crosby case. Rather, in his experience as FinCom chairman, he has urged Rockland to pursue delinquent tax title takings. DeWald has also encouraged the town to settle disputes expeditiously to avoid higher legal expenses. DeWald believed that settlement of the Crosby case was favorable to both Lederman and the town. Regardless of whether settlement of the Crosby case is in the best interest of the town, DeWald acknowledges that no request of settlement by him should have been made under the circumstances.

Conclusions of Law

11. Section 17(c) prohibits a municipal employee from, otherwise than in the proper discharge of his official duties, acting as agent for anyone other than the same municipality in connection with a particular matter in which the municipality is a party or has a direct and substantial interest.

12. The Crosby case was a particular matter in which the town was a party and had direct and substantial interests.

13. On behalf of and at the request of Lederman, DeWald intervened with the town attorney concerning the Crosby case by advocating that the town settle the matter as described above. Thus, DeWald acted as an agent for Lederman in connection with the Crosby case particular matter.

14. DeWald's actions were not in the proper discharge of his official duties.

15. By acting as an agent for someone other than the town in connection with the Crosby case particular matter, DeWald violated § 17(c).

16. Section 23(b)(2) of G.L. c. 268A prohibits a public employee from knowingly or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

17. DeWald knew or had reason to know he was using or attempting to use his FinCom Chairman position to influence Powers regarding the Crosby case because: 1) when he called Powers, DeWald identified himself as the FinCom chairman; 2) as FinCom Chairman, DeWald had the ability to vote on whether to approve funds to pay legal bills regarding the Crosby case, which included legal bills from Powers; and 3) Powers felt pressured by DeWald's call.

18. The privilege was to secure a settlement of the Crosby case on terms favorable to his friend Lederman.

19. The privilege was unwarranted because DeWald attempted to obtain the settlement on terms favorable to his friend by using the influence and power of his FinCom chairman position for a private purpose rather than on the merits of the case.

20. The settlement at issue in the Crosby case was of substantial value.

21. Other attorneys who were not friends with DeWald would not have been able to have the FinCom chairman intervene on their behalf. Thus, the privilege was not otherwise properly available to similarly situated individuals.

22. Therefore, by knowingly using his position as a FinCom chairman position in attempting to secure for his friend an unwarranted privilege of substantial value not properly available to similarly situated individuals, DeWald violated §23(b)(2).

Resolution

In view of the foregoing violations of G.L. c. 268A by DeWald, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by DeWald:

- (1) that DeWald pay to the Commission the sum of \$2,000 as a civil penalty for violating G.L. c. 268A, §§ 17(c) and 23(b)(2);
- (2) that DeWald waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: July 26, 2006